IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

Crl.MC.No. 835 of 2007()

CP.124/2006 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOTTARAKKARA

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PETITIONER: 1ST ACCUSED.

DEVIDAS, S/O. NARAYANAN,
AGED 43 YEARS, KUNNUMPURATHU VEEDU,KALAPILA MURI,
ODANAVATTOM VILLAGE, KOLLAM DISTRICT.

BY ADV. SRI.PRATHEESH.P

RESPONDENTS: STATE.

STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
POOYAPPALLY POLICE STATION, THORUGH PUBLIC
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI.S.U. NAZAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 835 of 2007

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Dated this the 22nd day of March, 2007

O R D E R

The petitioner is the first accused in a prosecution under Section 55(g) of the Kerala Abkari Act. Final report has been filed. Cognizance has been taken. Committal proceedings have been registered against the petitioner. As the petitioner did not appear before the learned Magistrate, non-bailable warrant had been issued against him. The petitioner submits that he had received summons to appear before the Court, but he did not enter appearance apprehending that his application for bail may not be considered by the learned Magistrate in accordance with law and he may be remanded to custody. The petitioner is willing to appear before the learned Magistrate. It is in these circumstances prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned

Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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